

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

Dated this the 5th Day of June 1998

BEFORE

THE HON'BLE MR. JUSTICE CHANDRASHEKARAIHAH

WRIT PETITION NO.42021/1995

Between:

Gangadhara,
Major, S/o.Late Kadirappa,
residing at No.43, Bapuji
Block Swant_antra Palya,
Srirampuram Front,
Bangalore - 21.

...PETITIONER

(By Sri.A.Ananda Shetty, Adv.)

And:

1. The Commissioner,
Corporation of the
City of Bangalore,
N.R.Square,
Bangalore - 560 002.
2. The Assistant Revenue Officer,
(Gandhinagar Range)
Goodshed Road, Corporation of
City of Bangalore, Bangalore-2.
3. Sri.Avalappa,
No.521, Hoodi village,
Whitefield road,
Bangalore - 560 048.

...RESPONDENTS

(By Sri.K.N.Puttegowda, Adv. for R-1 & R-2,
Sri.N.P.Kalleshgowda, Adv. for R-3)

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This Writ Petition is filed under Articles 226
and 227 of the Constitution of India with a prayer

to quash Annexure 'H' dt.21.9.95 and direct the Corporation not to forcibly evict the petitioner.

This Writ Petition coming on for Preliminary Hearing in 'B' Group this day, the Court made the following:-

O_R_D_E_R

The facts in this case are, consequent on the possession certificate dated 19.11.1991, the name of the 3rd respondent was entered in the Revenue records of the Corporation as kathadar. This entry relating to the katha was changed ✓
to the name of the petitioner for one reason or the other. This was objected by the 3rd respondent. On that objection, the Commissioner appears to have passed an order cancelling the katha which stood in the name of the petitioner and restoring the katha in the name of the 3rd respondent as per endorsement dated 21.09.1995. This endorsement is under challenge in this writ petition.

2. The learned Counsel for the petitioner submitted that the cancellation of the katha ~~stands~~ ✓

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227

in the name of the petitioner and restoration of the katha in the name of the 3rd respondent has been done without affording any opportunity of being heard to the petitioner. Therefore, in my opinion, the cancellation and restoration of the katha is illegal.

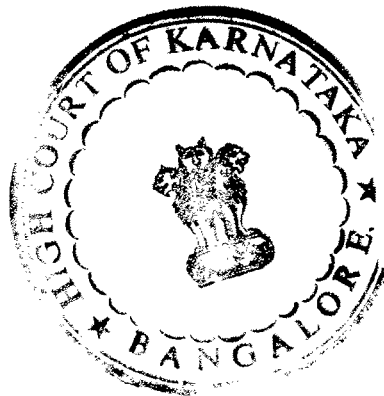
3. The learned Counsel for the Corporation submitted that the Commissioner has passed the order after hearing the petitioner and the 3rd respondent. In support of this contention, he has not produced any documents. Further the Corporation also has not filed any objection denying ^{the} ~~his~~ averments made in the Writ Petition. Therefore, I am of the view that the endorsement issued by the respondents as per Annexure 'H' intimating the cancellation of katha and restoration of the same in the name of the 3rd respondent is illegal ^{✓ as it is contrary to ✓} ~~from~~ the principles of natural justice. In the result, I pass the following order:

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228

4. The Writ Petition is allowed. The endorsement dated 21.09.1995 is quashed. The matter is remitted to the respondent to dispose of the matter afresh after due notice to the petitioner and 3rd respondent as expeditiously as possible.

Sd/-
JUDGE



sps